

A RESOLUTION

01- *L* -1390

BY PUBLIC SAFETY AND LEGAL ADMINISTRATION COMMITTEE

**A RESOLUTION AUTHORIZING PAYMENT IN THE  
AMOUNT OF \$2,775.00 IN SETTLEMENT OF THE CLAIM  
OF DELOIS R. JACKSON AGAINST THE CITY OF  
ATLANTA**

**WHEREAS**, Delois R. Jackson has filed a claim against the City of Atlanta seeking damages arising out of several occurrences of sewer back ups to her property located at 828 Delmar Court, SE; and

**WHEREAS**, the property owned by Delois R. Jackson has been damaged due to several occurrences of sewer back ups due to a blockage in the mainline which the City had knowledge of prior to the overflow which occurred on or about July 24, 2000, specifically; and

**WHEREAS**, the City of Atlanta was on notice of said nuisance and yet the City failed to abate said nuisance; and

**WHEREAS**, inasmuch as the facts disclosed indicate said claim is not based on a claim of negligence, but is a nuisance which is not subject to a defense of sovereign immunity under the laws of the State of Georgia; and

**WHEREAS**, the claimant has asserted damages in the amount of \$2,775.00 and has agreed to accept this sum in full and complete satisfaction and settlement of her claim against the City of Atlanta; and

**WHEREAS**, the City Attorney has recommended that the claim of Delois R. Jackson be settled for the sum of \$2,775.00.

**THEREFORE, BE IT RESOLVED** by the Council of the City of Atlanta, Georgia that \$2,775.00 be paid by the City of Atlanta in satisfaction of any and all claims Delois R. Jackson owner of property located at 828 Delmar Court, SE may have stemming from damages sustained to her property on or about July 24, 2000.

**BE IT FURTHER RESOLVED** that the Chief Financial Officer be and hereby authorized to pay the above mentioned sum from account number 2J01/529017/T31001.

DEPARTMENT OF LAW - CLAIM INVESTIGATION SUMMARY

Claim No. 00L0686

Date: August 16, 2001

Claimant /Victim DELOIS R. JACKSON

BY: (Atty)(Ins. Co.)

Address: 828 Delmar Court, SE, Atlanta, Georgia 30316

Subrogation: Claim for Property damage \$ 2,775.00 Bodily Injury \$

Date of Notice: 11/13/00 Method: Written, proper X Improper

Conforms to Notice: O.C.G.A. §36-33-5 X Ante Litem (6 Mo.) X

Date of Occurrence 07/24/00 Place: 828 Delmar Court, SE

Department Public Works Division: Sewer Operations

Employee involved Disciplinary Action:

NATURE OF CLAIM: The claimant property was damaged due to a sewer back up. The City was aware of problems on the mainline prior to this incident.

INVESTIGATION:

Statements: City employee Claimant Others Written Oral

Pictures Diagrams Reports: Police Dept Report X Other

Traffic citations issued: City Driver Claimant Driver

Citation disposition: City Driver Claimant Driver

BASIS OF RECOMMENDATION:

Function: Governmental X Ministerial

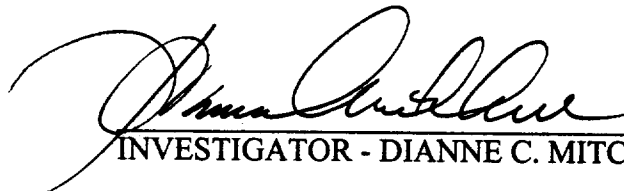
Improper Notice More than Six Months Other Damages reasonable X

City not involved Offer rejected Compromise settlement

Repair/replacement by Ins. Co. Repair/replacement by City Forces

Claimant Negligent City Negligent X Joint Claim Abandoned

Respectfully submitted,

  
INVESTIGATOR - DIANNE C. MITCHELL

RECOMMENDATION:

Pay \$ 2,775.00 Adverse Account charged: 1A01 2J01 X 2H01

Claims Manager: Dianne C. Mitchell Concur/date 08-17-01

Committee Action: Council Action

COUNCIL OF THE CITY OF ATLANTA  
MUNICIPAL CLERK  
City Hall  
55 Trinity Avenue, S.W.  
Atlanta, Georgia 30335

RE: CLAIM FOR DAMAGES

Today's Date: 11-13-00

ENTERED - 11-14-00 - SB  
00L0686 - DIANNE MITCHELL

Dear Municipal Clerk:

This is to notify the City of Atlanta that I have suffered damages in the amount sum of \$ 3,592.56 ~~3,592.56~~ property and/or \$ 2,775 bodily injury for which I contend the City is liable. Cal claim

1. Date of incident: July 24-00 2. Time of Incident: \_\_\_\_\_ 3. Police called: \_\_\_\_\_  
(month/day/ year) Yes No

4. Location of incident (including street address): 828 Delmar Ct, SE, Atlanta, GA

5. Name of your insurance company: State Farm Policy No. 11-KK-0989-5

6. State what and how incident occurred: Second occur from back up  
cause damage to furnace and air conditioning  
hot water tank(unit) damage to lawn mower

7. ALL ESTIMATES AND DAMAGES ARE SUBJECT TO INSPECTION. THE MAKING OF FALSE CLAIMS WILL RESULT IN YOUR CLAIM BEING DENIED AND MAY RESULT IN CRIMINAL PROSECUTION!

8. The registered owner must make the claim for vehicle damages, complete the following and attach two (2) estimates of repair and proof of ownership of your vehicle (copy of the current tag receipt or title).

Your vehicle: \_\_\_\_\_  
(Make) (Year) (Tag Number) (Driver's Name)

City vehicle: \_\_\_\_\_  
(Make) (City Driver's Name) (Department/Bureau)

9. Witness: \_\_\_\_\_  
(Name) (Address) (Telephone Number)

10. The acknowledgment of this claim in no way waives the Sovereign immunity of the City of Atlanta, as granted by State law, nor is it an admission of liability on behalf of the City of Atlanta and/or its employee(s).

11. This claim should be mailed immediately to the address shown above.

I HEREBY SWEAR OR AFFIRM THAT THE ABOVE INFORMATION IS TRUE AND CORRECT.

DeLois R. Jackson  
Signature of Claimant

DELOIS R. JACKSON  
(Print Claimant's Name)

828 DELMAR CT. SE  
(Address)

ATLANTA, GA 30316  
(City, State and Zip Code)

404-629-2244 404-622-5878  
(Work Number) (Home Number)

GENERAL RELEASE AND INDEMNIFICATION

CLAIM NUMBER 00L0686

\$ 2,775.00

IN CONSIDERATION of the sum of TWO THOUSAND SEVEN HUNDRED SEVENTY-FIVE AND NO/100 DOLLARS, to be paid by the CITY OF ATLANTA, the future receipt of which is hereby acknowledged, I do hereby, for myself, my heirs, executors, administrators, and assigns, release and forever discharge said City, its officers and employees, from any and all claims, demands, actions, causes of action, suits, damages, loss and expenses, of whatsoever kind or nature for or on account of anything that has heretofore occurred, and particularly for or on account of property damage due to a sewer back up

which occurred on or about the 24<sup>th</sup> day of July, 2000,

at or near 828 Delmar Court, SE

It is further understood and agreed that the payment of the above named sum is not to be considered as an admission on the part of the City, its officers, agents, servants or employees, of any liability whatsoever and the undersigned further covenants and agrees to indemnify and hold harmless the City of Atlanta, its officers, agents, servants and employees, from any and all claims, damages or costs which the said City of Atlanta, its officers, agents, servants and employees, may be called upon to make as a result of the event hereinbefore referred to.

And I now state that the only consideration for my signing this release and indemnification is the payment of the sum stated above; that no other promise or agreement of any kind or nature has been made to or with me by said City or its agents to cause me to sign this release, and that I fully understand the meaning and intent of this instrument.

WITNESS my hand and seal this \_\_\_\_\_ day of \_\_\_\_\_, 2001.

DeLois R. Jackson (LS)  
**DELOIS R. JACKSON**

The above release was read and explained to, and signed by the said \_\_\_\_\_

\_\_\_\_\_ in our presence on the date above written.

Jannie Sherman  
Elizabeth Jackson  
WITNESSES